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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation/Petition to
Revoke Probation Against:

RIMPLEJIT SINGH DHALIWAL
10617 Mer sham Hill Drive
Bakersfield, California 93311-3521
Registered Nurse License No. 492830

Respondent.

Case No. 2008-312

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation and
Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
of Registered Nursing, Department of Consumer Affairs (Board).

2. On or about August 31, 1993, the Board of Registered Nursing issued
Registered Nurse License Number 492830 to Rimplejit Singh Dhaliwal (Respondent). On April
18, 2000, the Board of Registered Nursing in a disciplinary action entitled "In the Matter of
Accusation Against Rimplejit Singh Dhaliwal," Case No. 99-82, issued a decision after
nonadoption, effective May 18, 2000, revoking Respondent's Registered Nurse License.

3. Effective May 19, 2005, the Board issued an order reinstating
Respondent's registered nurse license subject to certain terms and conditions for five years. A
copy of that decision is attached as Exhibit A and incorporated by reference. Respondent's

1 registered nurse license will expire on June 30, 2009, unless renewed.

2 **STATUTORY PROVISIONS**

3 4. This Accusation and Petition to Revoke Probation is brought before the
4 Board, under the authority of the following laws. All section references are to the Business and
5 Professions Code unless otherwise indicated.

6 5. Section 2750 provides, in pertinent part, that the Board may discipline any
7 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
8 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

9 6. Section 2764 provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under section 2811,
12 subdivision (b), the Board may renew an expired license at any time within eight years after the
13 expiration.

14 7. Section 2761 states:

15 "The board may take disciplinary action against a certified or licensed nurse or
16 deny an application for a certificate or license for any of the following:

17 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

18 ...

19 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
20 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
21 Nursing Practice Act] or regulations adopted pursuant to it.

22 ...

23 "(f) Conviction of a felony or of any offense substantially related to the
24 qualifications, functions, and duties of a registered nurse, in which event the record of the
25 conviction shall be conclusive evidence thereof.

26 8. Section 2762 states in pertinent part:

27 "In addition to other acts constituting unprofessional conduct within the meaning
28 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed

1 under this chapter to do any of the following:

2

3 “(b) Use any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
5 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
6 injurious to himself or herself, any other person, or the public or to the extent that such use
7 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
8 license.”

9 “(c) Be convicted of a criminal offense involving the prescription, consumption,
10 or self-administration of any of the substances described in subdivisions (a) and (b) of this
11 section, or the possession of, or falsification of a record pertaining to, the substances described in
12 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
13 thereof.”

14 “(d) Be committed or confined by a court of competent jurisdiction for
15 intemperate use of or addiction to the use of any of the substances described in subdivisions (a) ..
16 and (b) of this section, in which event the court order of commitment or confinement is prima
17 facie evidence of such commitment or confinement.

18 9. Section 490 states:

19 “A board may suspend or revoke a license on the ground that the licensee has been
20 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
21 of the business or profession for which the license was issued. A conviction within the meaning
22 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
23 contendere. Any action which a board is permitted to take following the establishment of a
24 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
25 been affirmed on appeal, or when an order granting probation is made suspending the imposition
26 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
27 Penal Code.”

28 10. Section 118, subdivision (b) provides that the suspension, expiration,

surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

11. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

ACCUSATION

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

12. Respondent is subject to disciplinary action under sections 490 and 2761(d) and (f), in that on November 30, 2007, Respondent pled nolo contendere to one misdemeanor count of violating Vehicle Code section 23152(A) (Driving Under the Influence of Alcohol) in the Superior Court for the State of California (Kern County) in a case entitled "*The People of the State of California v. Rimplejit Dhaliwal*", Case No. BM717995A. The circumstances are that on or around September 4, 2007, Bakersfield police officers responded to complaints regarding a DUI driver. Upon arrival, officers found Respondent's vehicle parked, facing the wrong way in a Taco Bell drive thru, and Respondent lying on the ground next to the vehicle. Due to Respondent's extreme level of intoxication, he was arrested and transported to Kern Medical Center for medical clearance. Respondent's blood alcohol level was ultimately determined to be 0.36.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Alcohol Related Conviction)

13. Respondent is subject to disciplinary action under sections 2761(d), and 2762(c), in that on or about November 30, 2007, Respondent was convicted of violating Vehicle Code section 23152(A) (Driving Under the Influence of Alcohol) as further set forth in paragraph 12.

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1 with all the conditions of the Board's Probation Program. Petitioner shall
2 immediately execute all release of information forms as may be required by the
Board or its representatives.

3 Petitioner shall provide a copy of this Decision to the nursing regulatory agency
4 in every state and territory in which he has a registered nurse license.

5 Condition No. 9.

6 20. **Employment Approval and Reporting Requirements.** Petitioner shall
7 obtain prior approval from the Board before commencing or continuing any
8 employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be
submitted to the Board all performance evaluations and other employment related
reports as a registered nurse upon request of the Board.

9 *Petitioner shall provide a copy of this Decision to his employer and immediate
supervisors prior to commencement of any nursing or other health care related
employment.*

10 In addition to the above, Petitioner shall notify the Board in writing within
11 seventy-two (72) hours after he obtains any nursing or other health care related
12 employment. Petitioner shall notify the Board in writing within seventy-two
13 (72) hours after he is terminated or separated, regardless of cause, from any
nursing, or other health care related employment with a full explanation of the
circumstances surrounding the termination or separation.

14 Condition No. 10.

15 21. **Supervision.** Petitioner shall obtain prior approval from the Board
16 regarding Petitioner's level of supervision and/or collaboration before
commencing or continuing any employment as a registered nurse, or education
and training that includes patient care.

17 Petitioner shall practice only under the direct supervision of a registered nurse
18 in good standing (no current discipline) with the Board of Registered Nursing,
19 unless alternative methods of supervision and/or collaboration (e.g., with an
advanced practice nurse or physician) are approved.
20 Petitioner's level of supervision and/or collaboration may include, but is not
limited to the following:

21 (a) Maximum - The individual providing supervision and/or collaboration is
22 present in the patient care area or in any other work setting at all times.

23 (b) Moderate - The individual providing supervision and/or collaboration is in
the patient care unit or in any other work setting at least half the hours Petitioner
works.

24 (c) Minimum - The individual providing supervision and/or collaboration has
25 person-to-person communication with Petitioner at least twice during each shift
worked.

26 (d) Home Health Care - If Petitioner is approved to work in the home health
27 care setting, the individual providing supervision and/or collaboration shall have
28 person-to-person communication with Petitioner as required by the Board each
work day. Petitioner shall maintain telephone or other telecommunication

1 contact with the individual providing supervision and/or collaboration as required
2 by the Board during each work day. The individual providing supervision and/or
3 collaboration shall conduct, as required by the Board, periodic, on-site visits to
4 patients' homes visited by Petitioner with or without Petitioner present.

5 Condition No. 11.

6 22. **Employment Limitations.** Petitioner shall not work for a nurse's
7 registry, in any private duty position as a registered nurse, a temporary nurse
8 placement agency, a traveling nurse, or for an in-house nursing pool.

9 Petitioner shall not work for a licensed home health agency as a visiting nurse
10 unless the registered nursing supervision and other protections for home visits
11 have been approved by the Board. Petitioner shall not work in any other
12 registered nursing occupation where home visits are required.

13 Petitioner shall not work in any health care setting as a supervisor of registered
14 nurses. The Board may additionally restrict Petitioner from supervising
15 licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case
16 basis.

17 Petitioner shall not work as a faculty member in an approved school of nursing
18 or as an instructor in a Board approved continuing education program.
19 Petitioner shall work only on a regularly assigned, identified and predetermined
20 worksite(s) and shall not work in a float capacity.

21 If Petitioner is working or intends to work in excess of 40 hours per week, the
22 Board may request documentation to determine whether there should be
23 restrictions on the hours of work.

24 FIRST CAUSE TO REVOKE PROBATION

25 (Failure to Obey All Laws)

26 23. Respondent's probation is subject to revocation because he failed to
27 comply with probation condition no. 3, when he was convicted of driving under the influence of
28 alcohol, as further set forth in paragraph 12.

29 SECOND CAUSE TO REVOKE PROBATION

30 (Failure to Submit Quarterly Reports)

31 24. Respondent's probation is subject to revocation because he failed to
32 comply with probation condition no. 7 by failing to submit written reports as follows:

- 33 a. Failed to submit a detailed account of the arrest described in paragraph 12
34 in writing within 72 hours of occurrence.
35 b. Failed to submit a detailed account of the speeding ticket received on

1 November 9, 2006, in writing, within 72 hours of occurrence.

- 2 c. Failed to submit to the Board the required work performance evaluations
3 by the appropriate due dates for the periods of June 1-30, 2006, July 1-31,
4 2006, August 1-31, 2006, October 1-31, 2006 of February 2 - March 31,
5 2007, April 1-30, 2007, May 1-31, 2007, June 1-30, 2007, July 1-31, 2007,
6 and August 1-31, 2007.

7 THIRD CAUSE TO REVOKE PROBATION

8 (Failure to Comply with Employment Approval and Reporting Requirements)

- 9 25. Respondent's probation is subject to revocation because he failed to
10 comply with probation condition no. 9 as follows:

- 11 a. Failed to notify the Board in writing within 72 hours after termination or
12 separation from Advanced Bio Services.
13 b. Failed to obtain prior approval from the Board before commencing or
14 continuing employment at Advanced Bio Services.
15 c. Failed to submit to the Board required Work Performance Evaluations by
16 their respective due dates for the following time periods: June 1-30, 2006,
17 July 1-31, 2006, August 1-31, 2006, October 1-31, 2006, February 2,
18 2007 - March 31, 2007, April 1-30, 2007, May 1-31, 2007, June 1-30,
19 2007, July 1-31, 2007, August 1-31, 2007 - October 31, 2007.

20 FOURTH CAUSE TO REVOKE PROBATION

21 (Supervision Requirements)

- 22 26. Respondent's probation is subject to revocation because he failed to
23 comply with probation condition no. 10, by not obtaining prior approval from the Board
24 regarding his level of supervision before commencing or continuing employment as a registered
25 nurse at Advanced Bio Services between February 2 and November 12, 2007.

26 FIFTH CAUSE TO REVOKE PROBATION

27 (Employment Limitations)

- 28 27. Respondent's probation is subject to revocation because he failed to

1 comply with probation condition no. 11, by working in a float capacity when he worked at both
2 Advanced Bio Services and Biomat USA between February 2 and November 12, 2007.

3 FIFTH CAUSE TO REVOKE PROBATION

4 (Failure to Comply With the Board's Probation Program)

5 28. Respondent's probation is subject to revocation because he failed to
6 comply with probation condition nos. 3, 7, 9, 10, and 11, as further described above.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


10 1. Revoking or suspending Registered Nurse License No. 492830 to
11 Rimplejit Singh Dhaliwal;

12 2. Revoking the probation that was granted by the Board of Registered
13 Nursing in Case No. 99-82 and imposing the disciplinary order that was stayed thereby revoking
14 Registered Nurse License No. 443452, issued to Rimplejit Singh Dhaliwal;

15 3. Ordering Rimplejit Singh Dhaliwal to pay the Board of Registered
16 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
17 Business and Professions Code section 125.3;

18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 5/12/08

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23 
RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California

28 Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Rimplejit Dhaliwal

RN 492830

Respondent.

OAH No. N2005010523

DECISION

The attached Proposed Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on May 19, 2005.

IT IS SO ORDERED this 19th day of April, 2005.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for
Reinstatement of:

RIMPLEJIT DHALIWAL

Registered Nurse License No. 492830

Petitioner.

Case No. 99-82

OAH No. N2005010523

DECISION

This matter was heard before a quorum of the Board of Registered Nursing on February 17, 2005, in Berkeley, California. Members present were: Sandra Erickson, CRNA, President; LaFrancine Tate, Vice President; Cynthia Johnson, EdD, RN; Isabella I. Casillas; Grace M. Corse, RN; Jill Furillo, RN; Mary C., Hayashi; Carmen Morales-Board, MSN, RN, NP; and Orlando H. Pile, MD.

Mary-Margaret Anderson, Administrative Law Judge, Office of Administrative Hearings, State of California, presided.

Hannah Hirsch Rose, Deputy Attorney General, represented the Department of Justice.

Anthony O. Egbase, Attorney at Law, represented Petitioner Rimplejit Dhaliwal, who was present.

Evidence was received and the matter was submitted. The Board met in closed session and reached a decision.¹ The record closed on February 17, 2005.

¹ Board member Carmen Morales-Board, MSN, RN, NP recused herself from deliberations and was not present in the room during that time.

FACTUAL FINDINGS

1. On August 31, 1993, the Board of Registered Nursing (Board) issued Registered Nurse License No. 492830 to Rimplejit Dhaliwal (Petitioner).

2. Effective May 18, 2000, the Board revoked Petitioner's license. The revocation was based upon an accusation that alleged unfitness to practice due to two criminal convictions- one for driving under the influence of alcohol on October 2, 1996 and the second for misdemeanor child molestation on September 29, 1997. He was sentenced to probation in both cases. The child molestation conviction was subsequently dismissed by reason of a court error; however, the Board's decision contains factual findings that indicate that he admitted wrongdoing during his testimony at the administrative hearing on the accusation. Also, it is undisputed that Petitioner admitted wrongdoing to a mental health professional in order to be accepted for the treatment that was a condition of the criminal probation.

3. The dismissal of the child molestation conviction did not occur until December 8, 2003. By that time Petitioner had already satisfied all of the conditions of the probationary order- including mental health counseling and treatment for alcohol abuse.

4. Petitioner testified that he has always denied the molestation charge, only admitting it when necessary to comply with the conditions of the criminal probation. He originally pled no contest to the charge because, among other things, he was guaranteed no jail time.

On the other hand, Petitioner readily admits that he is a recovering alcoholic. He last drank alcohol on the occasion of a family wedding that occurred in either 2000 or 2001. Although he had been sober for an extended period of time, Petitioner attended and participated in an out-patient program at Kaiser Permanente in order to be able to present proof of completion of a program to the Board. He presented proof of attendance at Alcoholics Anonymous meetings over a four-year period, culminating with a certificate of completion dated June 16, 2004. In addition, Petitioner submitted a certificate of completion of a substance abuse program administered by Western Schools, dated April 5, 2004.

5. Petitioner has worked for a cardiologist for almost one year. He has obtained certification as a phlebotomist. Previously, he worked as a technician at the Alpha Therapeutic Plasma Center in Bakersfield from 1998 until 2003, when the center closed.

6. Petitioner describes his support system as including his wife and other family members. He and his wife participated in counseling that he found helpful. If he has a problem, he talks to family or co-workers. Petitioner emphasized that he no longer desires to drink alcohol. He very much wants to return to the nursing profession.

LEGAL CONCLUSION

Cause exists to reinstate Petitioner's license based upon the evidence of rehabilitation he presented. Because of concerns regarding his current nursing skills and his commitment to sobriety, a term of probation is necessary. Prior to commencing employment as a nurse, Petitioner must complete a refresher course in nursing. In addition, he will be required to pay the cost recovery amount previously ordered.

ORDER

The petition of Rimplejit Dhaliwal for reinstatement as a registered nurse is granted. A license shall be issued to Petitioner; however said license shall immediately be revoked, the revocation stayed, and Petitioner placed on probation for three years pursuant to the following terms and conditions:

1. NURSING REFRESHER COURSE

Petitioner, at his own expense, shall enroll in and successfully complete a refresher course or equivalent set of courses as approved by representatives of the Board. Petitioner shall be suspended from practice until the required coursework is successfully completed, but may use his license for the limited purpose of completing clinical requirements of the required coursework.

2. SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

3. OBEY ALL LAWS

Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

4. COMPLY WITH THE BOARD'S PROBATION PROGRAM

Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

5. REPORT IN PERSON

Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

6. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when he or she resides outside of California. Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he or she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

7. SUBMIT WRITTEN REPORTS

Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

8. FUNCTION AS A REGISTERED NURSE

Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Petitioner has not complied with this condition during the probationary term, and Petitioner has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

9. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse.

Petitioner shall cause to be submitted to the Board all performance evaluations and other employment-related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his or her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Petitioner shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after he or she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

10. SUPERVISION

Petitioner shall obtain prior approval from the Board regarding Petitioner's level of supervision and/or collaboration before commencing or continuing

any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to, the following:

- (a) **Maximum** - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) **Moderate** - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Petitioner works.
- (c) **Minimum** - The individual providing supervision and/or collaboration has person-to-person communication with Petitioner at least twice during each shift worked.
- (d) **Home Health Care** - If Petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Petitioner with or without Petitioner present.

11. EMPLOYMENT LIMITATIONS

Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Petitioner from supervising

licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

12. COST RECOVERY

Petitioner shall pay to the Board costs associated with its investigation and enforcement in Case No. 99-82 (OAH No. L1998040564) pursuant to Business and Professions Code section 125.3 in the amount of \$3,438. Petitioner shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Petitioner has not complied with this condition during the probationary term, and Petitioner has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation will apply.

13. VIOLATION OF PROBATION

If Petitioner violates the conditions of his probation, the Board, after giving Petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Petitioner's license.

If, during the period of probation, an accusation or petition to revoke probation has been filed against Petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

14. LICENSE SURRENDER

During Petitioner's term of probation, if he or she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Petitioner may surrender his or her license to the Board. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Petitioner will no longer be subject to the conditions of probation.


Surrender of Petitioner's license shall be considered a disciplinary action and shall become a part of Petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

15. RESTORATION OF LICENSE

Upon successful completion of probation, Petitioner's license shall be fully restored.

DATED: 04/19/05



SANDRA L. ERICKSON, CRNA
President, Board of Registered Nursing
State of California

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	Case No. 99-82
)	OAH No. L-1999040564
RIMPLEJIT SINGH DHALIWAL,)	
3535 South H Street, Apt. 25)	
Bakersfield, CA 93304)	
Registered Nurse Lic. No. 492830)	
)	
Respondent.)	

DECISION AFTER NONADOPTION

On June 22 and 23, 1999, Joseph D. Montoya, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, State of California, heard the above-captioned matter at Bakersfield, California.

Complainant was represented by Mr. Edward H. Ochoa, Deputy Attorney General. Respondent appeared with his attorney, Mr. Jose R. Benavides.

Evidence was received, argument heard, and the case submitted for decision on June 23, 1999. On July 23, 1999, the record was reopened when the ALJ notified the parties he intended to take official notice of a medical text, unless objection was made. No objection was received and the matter was deemed resubmitted for decision on August 9, 1999.

Oral and documentary evidence was received and the matter submitted. The proposed decision of the Administrative Law Judge was submitted to the Board of Registered Nursing (hereinafter "board") on September 17, 1999. After due consideration thereof, the board declined to adopt said proposed decision and thereafter on December 7, 1999 issued an Order of Nonadoption. Subsequent to the receipt of the transcript, the parties were given the opportunity to submit written argument to the board. Written argument having been received from both parties, and the time for filing written argument in this matter having expired, the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the board hereby makes the following decision and order:

FINDINGS OF FACT

1. Complainant Ruth Ann Terry, M.P.H., R.N., filed the accusation in the above-captioned matter while acting in her official capacity as Executive Officer, Board of Registered Nursing ("the Board"), Department of Consumer Affairs, State of California.

2. On or about August 31, 1993, the Board issued a license to Respondent Rimplejit Singh Dhaliwal (sometimes hereafter "Dhaliwal") to practice as a registered nurse in the State of California. The license, number 492830, was due to expire on June 30, 1999, unless renewed. So far as the license may have expired since submission of the case, the Board retains jurisdiction to proceed.

3. (A) On or about October 2, 1996, in the Municipal Court of California, County of Kern, Bakersfield Judicial District, in the case *People v. Rimplejit Singh Dhaliwal*, case number BM534147A, Respondent was found guilty of violating Vehicle Code section 23152(a). Respondent's conviction followed his plea of nolo contendere to violating that statute, and as a result Respondent was convicted of a misdemeanor.

(B) The circumstances of the crime are that Respondent was operating a vehicle in the Bakersfield area while under the influence of alcohol. Tests indicated a blood alcohol of .21 and .22, nearly three times the legal limit of .08.

(C) Respondent's sentence was suspended, and he was placed on three years summary probation, on the condition that he serve two days in custody, pay fines and assessments in excess of \$1,200.00, and that he refrain from further violations of the law. Various other terms and conditions, standard to probation grants in such cases, were imposed.¹ Respondent paid his fine within ten days of his conviction, and began compliance with his other terms of probation.

(D) Respondent's conviction was for an offense substantially related to the duties, qualifications, and functions of a registered nurse.

4. Less than one year later, Respondent violated his probation by committing another crime. On September 29, 1997, in the Municipal Court of California, County of Kern, Bakersfield Judicial District, in case number BM54413A, Respondent was convicted of violating Penal Code section 647.6. Respondent's conviction followed his plea of nolo contendere to violating that statute, and he was thereby convicted of willfully and unlawfully annoying or molesting a child under the age of eighteen years, a misdemeanor.

5. (A) Respondent's second crime occurred on May 16, 1997. Several hours after finishing his then-daily intake of alcohol, Mr. Dhaliwal approached a twelve-year old girl who lived in his apartment complex. The girl was a playmate of

¹ I.e., Respondent was ordered not to drink and drive, to participate in alcohol education, etc.

Respondent's daughters. Respondent sat next to the girl, and put his arm around her. He attempted to hug her, and reached around her shoulder and touched her breast. He tried to kiss her, and he asked her, "do you like to do sex?" When she replied in the negative, he offered her money—twenty dollars—to have sex with him. When the child refused, Respondent then offered her thirty dollars for sex. She again refused his advances, and told her parents of the incident. The police were summoned to Respondent's building, and they took statements from Respondent, the victim, and other witnesses. Respondent denied the incident to the police, who arrested him nevertheless.

(B) Respondent's conviction was for a crime substantially related to the duties, qualifications, and functions of a registered nurse.

6. Following his plea, imposition of sentence was suspended, and Respondent was placed on three years court-supervised probation. As a condition of probation, he was ordered to serve thirty days in the county jail, to register as a sex offender pursuant to Penal Code section 290, and to obtain mental health treatment and care through the County Health Department. He was ordered not to treat any patients under the age of eighteen years, and during probation was ordered to have no contact with children unless accompanied by another adult. A small fine and restitution order was also made.

7. Respondent has been in compliance with his probation since that time. He has undertaken therapy in a manner prescribed by mental health professionals at the County Health Department. He has recently, at the Health Department's insistence, entered into a program for alcohol abuse. He has paid his fines, served his jail-time, and is employed as a registered nurse in a situation where he does not treat minors.

8. Respondent currently holds two jobs. His main employment is at Truxton Surgery Center; he also works part-time at Alpha Therapeutic. He started both jobs in approximately December 1997. At Truxton Surgery Center he assists in the performance of endoscopies and similar tests. At Alpha Therapeutic he acts as a technician. The firm buys blood. Through these employments Respondent supports his wife and two children.

9. (A) In compliance with his criminal probation, Respondent began treatment through the County Mental Health Department in December 1997. Initially, the Department's program refused to accept Mr. Dhaliwal, as he denied wrongdoing. However, within a few weeks he returned, accepted responsibility, and began treatment.² The treatment program has many components, including group therapy, couples' therapy (for those, like Respondent, who are married), individual therapy, and substance abuse treatment. Respondent was tested and evaluated, and diagnosed as suffering from "Paraphilia, not otherwise specified."

² The therapist who testified on Respondent's behalf made clear that such behavior is common at the beginning of treatment, but is not a lasting impediment to a positive therapeutic outcome.

(B) According to the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition ("DSM-IV")*, the essential features of a Paraphilia are recurrent intense sexually arousing fantasies, sexual urges, or behaviors. They generally involve nonhuman objects, suffering or humiliation of the patient or the patient's partner, children or other nonconsenting persons; these behaviors or fantasies occur over a period of at least six months. The behaviors, urges, or fantasies cause clinically significant distress, or impairment of social, occupational, or other functioning. By definition, an arrest and incarceration are impairments of social functioning.

(C) Respondent's specific diagnosis—Paraphilia Not Otherwise Specified—means that he does not meet the criteria for certain specific paraphelias, which include Pedophilia and Sadism. Thus, Respondent has not been diagnosed as a pedophile.

(D) The Proposed Decision states that the *DSM-IV* notes that the diagnosis of paraphelias across cultural and religious lines is complicated by the fact that what is considered deviant in one cultural setting may be more acceptable in another. However, the decision failed to explain that Respondent's therapist testified that it is not culturally acceptable from Respondent home of origin to have sex with twelve year olds outside the confines of marriage.

10. (A) Respondent's therapist, a marriage, family and child counselor intern registered with the California Board of Behavioral Sciences since July of 1998, testified on his behalf. She testified that Respondent has recognized his responsibility for his action, and the harm he caused, or could have caused, to the victim. She testified that in her opinion Respondent's remorse is sincere and unfeigned. She verified that Respondent has been working very hard in therapy, and that given the many stressors in Respondent's life he is progressing very well. She affirmed that Respondent has only recently taken steps to start an alcohol abuse program.

(B) In the therapist's opinion, Respondent will need to stay in treatment for the rest of his probation term, at least another year. She also testified that the treatment is normally for at least three years. If the Department is not satisfied with his progress, it will obtain an extension of probation from the Court. The therapist is cautiously optimistic about Respondent's prognosis, and believes that if he is allowed to work as a nurse it should be in a restricted capacity.

11. One of the owners of Truxton Surgery Center, Dr. Bhaika, testified on Respondent's behalf, and established that Respondent has been employed at the firm since late 1997. Respondent first made his employer aware of his conviction and the probation terms that restricted his employment in early 1999, after the filing of the Accusation in this case. Dr. Bhaika and his partners continued to employ Respondent despite the conviction, and they have been wholly satisfied with his work. Their firm has little contact with patients under eighteen years of age. On the rare occasion when a minor appears for testing, Respondent has no contact with that patient. Dr. Bhaika

values Respondent's work, and would be sorry to lose his assistance. The firm has accommodated Respondent's schedule, which has many demands because of the therapy regimen imposed by the Health Department. The firm would continue to employ Respondent subject to any restrictions the Board might impose.

12. Respondent credibly testified to his remorse and shame for his loathsome act. He admitted that he is an alcoholic, and testified to being sober for the last year. At the time of the crime, he was thirty-seven years old, and had lived in America for about eleven years following his emigration from India. He remains married despite his misbehavior, and has in fact improved aspects of the relationship since his conviction. He would accept any terms and conditions which the Board might impose, and would abide by them.

13. In mitigation, Respondent has no prior discipline by the Board.

14. Although he has taken strides toward rehabilitation, Respondent has not established that he is sufficiently rehabilitated.

15. The Board has incurred expenses in investigating and prosecuting this matter. The reasonable costs of investigation and prosecution are \$3,428.00.

CONCLUSIONS OF LAW

1. Cause exists to discipline Respondent's license pursuant to Business and Professions Code section 2761(f) ³for conviction of crimes substantially related to the duties, qualifications, or functions of a registered nurse, to wit, driving while under the influence of alcohol, and molesting or annoying a child, based on Findings of Fact 2 through 6.

2. Cause exists to discipline Respondent's license pursuant to Code section 490 for conviction of a crime substantially related to the duties, qualifications, and functions of a registered nurse, based on Findings of Fact 2 through 6, above.

3. Cause exist to discipline Respondent's license pursuant to Code section 2761(a), as defined in Code section 2762(b) for unprofessional conduct by using alcohol in a manner dangerous to himself or others, based on Findings of Fact 3(A) through (D).

4. Respondent has established strides towards rehabilitation, but has not established sufficient rehabilitation, based on Findings of Fact 7 through 9(A), 10 through 12, and 14.

³ Hereafter all statutory references shall be to the Business and Professions Code, cited as "Code", unless otherwise noted.

5. The Board is entitled to recover its reasonable costs of investigation and enforcement pursuant to Code section 125.3, in the amount of \$3,428.00, based on Finding of Fact 15.

6. The public can only be protected by revoking Respondent's license, based on Findings of Fact 7 through 14.

Discussion and Rationale:

The Board's discipline guidelines, incorporated by reference into the California Code of Regulations,⁴ state that public protection shall be the paramount concern. They also provide that serious crimes, and particularly crimes of sexual abuse, should normally lead to license revocation. Case law has long held that the primary purpose of proceedings such as these is the protection of the public, and not the punishment of the licensee. (See, e.g., *Camacho v. Youde* (1979) 95 Cal. App. 3d 161, 164.)

Respondent was convicted on or about October 2, 1996, of driving under the influence of alcohol. Seven months later, while on criminal probation, respondent violated his probation by attempting to have sex with a twelve year old. Respondent claims that he was under stress from marital pressures and was still abusing alcohol. Respondent's therapist testified that he is making progress in his rehabilitation regarding the sexual misconduct. However, she also testified that he has only recently started an alcohol abuse program. It is respondent's responsibility to take control of his alcohol abuse problem. While it may be his therapist's department's fault for him not joining its program sooner, this does not excuse respondent from seeking treatment sooner and somewhere else.

The Proposed Decision erroneously concluded that respondent has shown that he can control his "paraphilia" because he has not had a problem at work. Respondent is not around children at work, therefore, it should be relatively easy for him to control his paraphilia at work. Probation is not appropriate for Respondent at this time because if he was placed on probation, once his probation term ended, he would be free to work with children. Respondent's therapist who had only been treating him for six months prior to the hearing, testified that it is not possible to predict if Respondent will repeat this behavior. She testified, "He still needs a **substantial** amount of treatment, and he needs to gain a greater understanding of his underlying sexual dynamics, psychosexual dynamics, but I feel good about his progress. But I never could predict for anyone that they would never ever reoffend." (Emphasis added.)

⁴ See Title 16, California Code of Regulations, section 1444.5. Hereafter all regulatory references shall be to Title 16, cited as "CCR" and the section number, unless otherwise noted.

ORDER

The registered nurse's license issued to Respondent Rimplejit Singh Dhaliwal, number 492830, is hereby revoked.

If and when Respondent's license is ever reinstated, he shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,428.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

IT IS SO ORDERED.

This decision shall become effective on May 18, 2000.

DATED: April 18, 2000



MARY JO GORNEY-MORENO, Ph.D., RN
President, Board of Registered Nursing

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8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:) NO. 99-82
12 RIMPLEJIT SINGH DHALIWAL)
3535 South H Street, Apt. 25) ACCUSATION
13 Bakersfield, CA 93304)
14 Registered Nurse License No. 492830)
Respondent.)

16
17 Ruth Ann Terry, M.P.H., R.N., for causes for discipline, alleges:
18

19 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and files Accusation
20 in her official capacity as Executive Officer, Board of Registered Nursing, Department of
21 Consumer Affairs.

22 LICENSE INFORMATION

23 2. On August 31, 1993, the Board of Registered Nursing issued registered
24 nurse license number 492830, to Rimplejit Singh Dhaliwal (respondent herein). The license will
25 expire on June 30, 1999, unless renewed.

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1 **JURISDICTION**

2 3. Under Business and Professions Code section 2750, the Board of
3 Registered Nursing may discipline any license, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

5 4. Under Business and Professions Code section 2764, the expiration of a
6 license shall not deprive the Board of Registered Nursing of jurisdiction to proceed with a
7 disciplinary proceeding against the licensee or to render a decision imposing discipline on the
8 license.

9 5. Under Business and Professions Code section 490, the Board of
10 Registered Nursing may suspend or revoke a license when it finds that the licensee has been
11 convicted of a crime substantially related to the qualifications, functions, or duties of a registered
12 nurse.

13 6. Under Business and Professions Code section 125.3, the Board may
14 request the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 **GROUND FOR DISCIPLINE**

18 7. Respondent has subjected his license to discipline under Business and
19 Professions Code section 2761(f) in that respondent was convicted of crimes as follows:

20 a. On October 2, 1996, in the Municipal Court of Kern County (People v.
21 Rimplejit Singh Dhaliwal, Case Number BM534147A), respondent was found guilty by the
22 Court on his plea of nolo contendere to a violation of Vehicle Code section 23152(A) (driving
23 under the influence of alcohol). On July 22, 1997, the Kern County District Attorney filed a
24 Petition for Revocation of Probation in that on May 16, 1997, respondent was cited for a
25 violation of Penal Code section 647.6 (willfully and unlawfully annoy or molest a child under the
26 age of 18 years), a violation of his probation. On July 24, 1997, the Judge of the Municipal
27 Court signed an Order revoking respondent's probation.

1 The circumstances of the crime are that on September 9, 1996, respondent was
2 arrested while operating a motor vehicle while under the influence of alcohol.

3 b. On September 29, 1997, in the Municipal Court of Kern County (People v.
4 Rimplejit Singh Dhaliwal, Case Number BM54413A), respondent was found guilty by the Court,
5 on his plea of nolo contendere to a violation of Penal Code section 647.6 (willfully and
6 unlawfully annoy or molest a child under the age of eighteen years), a misdemeanor.

7 The circumstances of the crime are that on May 16, 1997, respondent willfully
8 and unlawfully annoyed and molested R.F., a 12-year old female in that he grabbed her in a
9 hugging fashion, tried to kiss her on the mouth several times, asked her, "do you like to do sex?"
10 and offering her \$20 if she would have sex with him.

11 8. Respondent has subjected his license to discipline under Business and
12 Professions Code section 490 in that respondent was convicted of acts or crimes, as set forth in
13 paragraph 7 above, substantially related to the qualifications, functions or duties of a registered
14 nurse, as defined in Title 16, California Code of Regulations, section 1444.

15 9. Respondent has subjected his license to discipline under Business and
16 Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by
17 section 2762(b) of that code, in that on September 9, 1996, he used alcohol to such an extent or
18 in a manner dangerous or injurious to himself and others, as set forth in paragraph 7,
19 subparagraph a., above.

20 10. Respondent has subjected his license to discipline under Business and
21 Professions Code section 2761(a) on the grounds of unprofessional conduct as set forth in
22 paragraphs 7 through 9 above.

23 **PRAYER**


24 **WHEREFORE**, complainant prays that a hearing be held and that the Board of
25 Registered Nursing make its order:

26 1. Revoking or suspending registered nurse license number 492830, issued to
27 Rimplejit Singh Dhaliwal.

1 2. Ordering Rimplejit Singh Dhaliwal to pay to the Board of Registered
2 Nursing its costs in investigating and enforcing the case according to proof at the hearing,
3 pursuant to Business and Professions Code section 125.3.

4 3. Taking such other and further action as may be deemed proper and
5 appropriate.

6
7 DATED: 1/6/99

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9 
10 RUTH ANN TERRY, M.P.H., R.N.
11 Executive Officer
12 Board of Registered Nursing
13 Department of Consumer Affairs
14 State of California

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26 Complainant
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